



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/586,222	10/04/2006	Leonhard Fuchs	175.8377USU	2726
27623	7590	05/19/2009		
OHLANDT, GREELEY, RUGGIERO & PERLE, LLP ONE LANDMARK SQUARE, 10TH FLOOR STAMFORD, CT 06901				
EXAMINER				
BARRY, CHESTER T				
ART UNIT		PAPER NUMBER		
1797				
MAIL DATE		DELIVERY MODE		
05/19/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/586,222

**Applicant(s)**

FUCHS ET AL.

**Examiner**

CHESTER T. BARRY

**Art Unit**

1797

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Claims 1 – 4, 6 – 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In a continuously-fed raw sludge feeding step, there is but one "charge." Accordingly, the recitation of "time between two chargings" of the first stage appears to relate only to the embodiment in which feeding to the first stage is carried out "quasi-continuously." It is confusing, therefore, for the claim to be limited on the one hand by the time interval between "two chargings" of a quasi-continuous raw sludge feeding modality, and ostensibly broad enough to encompass "continuou[s]" charging of but one charging of raw sludge to the first stage. This basis for rejection could be overcome by deleting "continuously or" from claim 1, with attention to any references to the "continuously" fed mode in any relevant dependent claims.

Per claim 1, it appears that the "first stage" refers to a structure rather than a process step because reference is made to feeding the raw sludge "into" a first stage, and because the word "where" suggests that the "first stage" is a place rather than a step. If applicants intended the "first stage" to be a step of the process, rather than a structure, one would have expected the claim to read, "sludge . . . is fed . . . ~~into~~ in a first stage, ~~where~~ during which it remains . . .," or the like. Accordingly, per claim 12, it is unclear whether "the raw sludge tank" recited in claim 12 is the same structure as the "first stage" recited in claim 1. In addition, it is unclear whether the recitation of "a first stage" in claim 12 refers to the same "first stage" as recited in claim 1, or whether there are two "first stage" structures. Moreover, it is unclear whether the recitation of "a

Art Unit: 1797

second stage" structure in claim 12 refers to the same "second stage" step as recited in claim 1.

The prior art fails to describe or suggest quasi-continuously feeding raw sludge to a first stage step or vessel as recited in the claims, followed by the continuous or quasi-continuous discharging of partially stabilized sludge therefrom to either a second stage disinfection unit or to an intermediate vessel from which partially stabilized sludge is subsequently fed to a second stage disinfection step.

/Chester T. Barry/

Primary Examiner, Art Unit 1797

571-272-1152